IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :27300 of 2006

Dated: 2nd December 2007.

Between:

M/s. Sankineni Krishna Rao.

..... PETITIONER

AND

Commercial Tax Officer (F.A.C.), Suryapet, Nalgonda District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NO.27300 OF 2006

ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is a proprietary concern; a registered dealer both under the A.P.G.S.T. Act and the A.P.V.A.T. Act, on the rolls of the 1st respondent, carrying on business as a works contractor. For the assessment year 2002-03, the petitioner's liability for tax under the A.P.G.S.T. Act, came to be determined by an order of the 1st respondent, dated 04-02-2006. Challenging the said assessment, the petitioner carried the matter in appeal before the

3rd respondent. The 3rd respondent partly allowed the appeal by an order dated 05-09-2006. Aggrieved by that portion of the 3rd respondent's appellate order, where the petitioner could not succeed, the petitioner carried the matter in a further appeal before the Sales Tax Appellate Tribunal and the appeal is said to be pending. Simultaneously, the petitioner filed an application before the 2nd respondent seeking stay of the disputed tax during the pendency of the abovementioned appeal before the Sales Tax Appellate Tribunal. The said application was rejected by an order dated 20-12-2006. Hence, the present writ petition with the prayer as follows:

> " For the reasons stated in the accompanying affidavit it is prayed that this Hon'ble Court be pleased to issue an appropriate Writ, Order or Direction more particularly in the nature of MANDAMUS declaring the action of the Second Respondent in rejecting the Stay Petition vide his Order in CCT's Ref.NO. LIII(3)/944/2006, dated 20-12-2006 is illegal and contrary to law and consequently to grant stay of collection of the disputed tax of Rs.8,69,216-00 for the Assessment Year 2002-03 APGST pending disposal of the Appeal before the Sales Tax Appellate Tribunal, Hyderabad, and pass such other order or orders as may be deemed fit and proper in the circumstances of the case and in the interest of justice."

Heard the learned Government Pleader for Commercial Tax.

In the circumstances, we are of the opinion that the matter can be disposed of at this stage directing the respondents not to take any coercive steps for collection of the disputed tax with reference to the abovementioned assessment year on condition of the petitioner depositing 50% of the disputed tax within a period of six weeks from today.

The amount already paid, if any, by the petitioner towards the disputed tax shall be given credit to while computing the abovementioned amount of 50% of the disputed tax.

Accordingly, with the above directions, the writ petition is disposed of at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

2nd January 2007
mrk